

Proposed Amendment to the
Federal Employees Pay Act of 1945, As Amended

a. Proposed Amendment

Section 102(b) of the Federal Employees Pay Act of 1945, as amended (5 U.S.C. §902b) (relating to exemption from coverage under the Act), is amended by striking out "and" immediately preceding "(7)" therein and by inserting before the period at the end thereof "; and (8) officers and employees of the Central Intelligence Agency."

b. Sectional Analysis

This change amends the Federal Employees Pay Act of 1945, as amended (5 U.S.C. §902(b)) to include the officers and employees of the Central Intelligence Agency among those already excluded from the provisions of that Act.

c. Justification and Explanation

Since 1949 (?), the Civil Service Commission has exempted officers and employees from the coverage of the regulations promulgated by the Commission for the administration of the Federal Employees Act of 1945, as amended. Such exemption is currently stated in Chapter 1 of the Federal Personnel Manual in paragraph .

This exclusion of Agency personnel from the Pay Act recognizes the pay-fixing ^{authority} granted to the Director of Central Intelligence in section 8(a) of the Central Intelligence Agency Act, as amended (50 U.S.C. 403j?), and through specific exemption of the Agency's positions from the provisions of the Classification Act of 1949, as amended (5 U.S.C.). It has thus been recognized that the Agency's unique conditions do not permit a salary administration program conforming in all respects to the specific principles and standards established in the two basic statutes governing salary administration in the classified civil service.

The Agency has developed a salary administration program which adheres closely to the principles and standards of the Classification Act regarding the classification of positions, establishment of entry salary rates, and the grant of merit and quality step increases and conforms generally to the principles and standards of the Pay Act regarding premium pay and hours of work. However, it has been necessary for the Agency to deviate somewhat from the specific practices required by these Acts to accommodate peculiar problems inherent in its mission and function. The proposed amendment clarifies the authority of the Director of Central Intelligence to do so by specifying the exclusion of its officers and employees from the provisions of the Pay Act as has already been stated in the Classification Act.

d. Cost

This amendment contemplates no change in present Agency practice with respect to the pay administration matters governed by the Federal Employees Pay Act of 1945, as amended. Therefore, there should be no increased cost to the government as a result of its enactment.

TITLE I Objectives and Definitions

TITLE II Direction of the Service

TITLE III General Duties

Sec. 303 - President may authorize Secretary to prescribe regulations.

TITLE IV Categories and Salaries of Personnel

TITLE V Appointments and Assignments

— **Sec. 520(c)- Retired officer is not, by reason of retired status, barred from employment in Federal Government.**

Sec. 528 - Reinstatement of Reserve Officers "Re-employment rights."

Sec. 571 - Assignment to Government Agency or International Organization (a) officer may be detailed for 4 years; (Secretary may approve additional 4 years.) (b) Does not lose status as FSO if by Presidential appointment; (c) Can receive higher salary in new position.

Title VI Personnel Administration

if + above — **Sec. 631 - Career Ambassador or Career Minister must retire at 65 (extend for 5 years).**

— **Sec. 632 - All others (FSOs) must retire at 60 (can extend by Secretary for 5 years).**

Sec. 633 - Selection Out

(a) Secretary prescribe regulations.

(1) Maximum period without promotion

(2) Standard of performance

(b) FSO who fails to meet (1) or (2) shall be retired.

✓ **Sec. 634 - Selection Out Benefits**

(a) FSO 1, 2 or 3 under Sec. 633 gets regular FS retirement.

14-17
7-13
(b) FSO 4, 5, 6 or 7 under Sec. 633 gets 1/12 of annual salary (not over 1 year) for each year of service in 3 equal annual payments beginning the next 1 January and refund of retirement deductions or if 5 years of FSO then deferred annuity at age 60.

✓ **Sec. 636 - With consent of Secretary FSO with 20 years service at age 50 may retire.**

TITLE VII Foreign Service Institute

TITLE VIII Foreign Service Retirement and Disability System

Sec. 801 (a) President (now Secretary) may prescribe regulations.

Sec. 802 - Secretary of Treasury shall maintain the Fund.

Sec. 803 (c) FSS appointed by Secretary who has 10 years of continuous service in the Foreign Service shall become a participant

Sec. 804 - Same as CSC 2251

Sec. 811 - Same as CSC 2254

Sec. 821 (a) Computation 2% x average high 5 x years of service (not above 35)

(b) Election of survivor annuity (married)
Same as CSC 2259 (g) and 2260 (c)

(c) Children's surviving (w/widow)
Same as CSC - 2260 (d)

(d) Children only - Same as CSC - 2260 (d)

(f) Unmarried - Beneficiary
Same as CSC 2259 (h) and 2260 (b)

Sec. 831 - Disability

After 5 years, generally 40%.
Same as CSC - 2259 (a)

Sec. 832 (b) Death in Service.

After 5 years, widow receives 50% of members annuity. Same as CSC - 2260(c)

(d) Surviving children - Same as CSC - 2260 (d)

NOTE:

(e) If less than 20 years - count 20.

Sec. 833 Participant, but not FSO, who retires under law relating to his position if 50 years and 20 years service may draw annuity. No CSC parallel.

Sec. 834 Voluntary separation after 5 years service may have refund or annuity at age 60. Same as CSC - 2259.

Sec. 841 Refund. Total contribution w/interest at 4% compounded annually as of Dec. 31. Where annuity paid less than credits, balance to beneficiaries.
CSC 4% to 1947, 3% to 1956, none thereafter.

- Sec. 851. Length of Service.** From date of appointment including absence under FECA and in Military, excluding LWOP over 6 months.
Generally same as CSC - 2253 a, b, c, d.
- Sec. 852. Prior Service**
- (a) Other civilian service, military
 - (b) Re-deposit 5% to 1960 and 6 1/2 thereafter with interest at 4% compounded annually.
CSC sliding scale with interest at 3%.
 - (c)(1) Where transfer - deposit of Fund plus interest from CS retirement.
 - (c)(2) Where transferred no additional payment or refund.
 - (e) Can include military time even if retired for disability in combat or instrumentality of war during war.
Same as CSC 2253 (b) except military service after Dec. 1956 is excluded except for military leave. 2253(j)
- Sec. 853. President may establish lists of unhealthful post.** Time and 1/2 for retirement - but not if paid salary differential under Sec. 443.
- Sec. 871. Annuitant recalled gets salary in lieu of annuity -** makes deposits and recomputes annuity upon retirement. 2263(b) CS deduct annuity from salary. Recompute.
- Sec. 872. Reemployment.** An annuitant who is reemployed in the Federal Government is entitled to receive the salary of the position in which he is serving plus so much of his annuity which when combined with such salary does not exceed the basic salary the employee was entitled to receive on the date of his retirement under the Civil Service System (section 2263(b)). The individual has no deductions for retirement but there is withheld from his salary an amount equal to the annuity allocable to the period of actual employment.

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APPENDIX A

RETIREMENT SYSTEMS

1. Without going into all of the complexities, there are two basic civilian retirement systems, the Foreign Service and the Civil Service Retirement Act. Under Foreign Service an individual is eligible to retire at age 50 if he has 20 years' service with the annuity being computed on a factor of 2% of the average of the highest five (5) years of salary multiplied by years of service. Basically, the Civil Service Retirement system permits retirement at age 60 with 30 years of service. The annuity factor, however, is different. For the first five years of service the factor is 1 1/2, for the second five years the factor is 1 3/4, and thereafter the factor is 2%. Generally, therefore, Civil Service Retirement requires more years of service, greater age and lesser rate of annuity.

2. There is an exception to the Civil Service Retirement system frequently called "FBI Retirement." In fact, this more favorable retirement is available to employees of any agency whose duties consist principally of law enforcement. The age is reduced to 50 with twenty years of service and the annuity factor is 2%. Basically, therefore, the FBI retirement is similar to Foreign Service retirement.

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3. The Agency efforts concerning "early retirement" centered around a plan which was geared to overseas service. Each year of service abroad would have been creditable as a year and a half of service and there would also have been a proportionate reduction of the required retirement age. The net effect of this proposal would have been that an individual who spent ten years overseas would generally fall into the age and service requirements of Foreign Service and FBI retirement. This proposal floundered on the rocks of the Bureau of the Budget. In part it was their desire to work out a formula which would be uniformly applicable to all employees of the Government.

4. Over the years a number of the members of the CIA Subcommittees of the Congress have expressed surprise that the Agency was tied to the Civil Service Retirement Act. Some stated that they had assumed we were covered by the special provisions applicable to the FBI or a system similar to the Foreign Service. The difficulties of proposing a new type of early retirement for CIA will subject the Agency to whittling away in the Bureau of the Budget and certainly the Congress will want to examine exhaustively any plan for which there is no statistical experience. On the other hand, urging adoption for the Agency of a tried and proven retirement system does not subject the system itself to questioning and attack but leaves open for discussion only the question of whether or not

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it should be applicable to the Agency and to what group of employees within the Agency. As in other fields of employee benefits, the Foreign Service has been the leader generally in the retirement field. They have constantly refined and improved the system over the years which would indicate that in the future they will not permit the system to fall out of date.

BACKGROUND

Employees covered under new system: The proposed retirement system will cover an estimated 25 to 30% of Agency employees. (ESTIMATED NUMBER: [REDACTED] 25X1A

Total Retirements for Past Five Years: The total retirements from the Agency as a whole over the past five fiscal years (1959 through 1963) were [REDACTED] an average of ^{about} [REDACTED] per year. Total retirements from the group to which the new system would apply were [REDACTED] an average of [REDACTED] per year. 25X1A

DETAIL OF THESE RETIREMENTS

	<u>AGENCY</u>	<u>"FOREIGN SERVICE GROUP"</u>
Optional Retirements	<div style="background-color: black; width: 100%; height: 100%; min-height: 100px;"></div>	
Age Retirements		
Discontinued Service Retirements		
Disability Retirements		

DISABILITY RETIREMENTS FROM "FOREIGN SERVICE GROUP"

Over the past five years, some one-tenth of one percent ^{per year} of the people who would be covered by the proposed new system have retired for disability. (About one-third of these retirements were for psychiatric illness and about two-thirds for physical problems such as heart disease, cancer, and the like.)

The age range of the disability retirees has been from 25 to 64. However, one-fourth of them were in the 45 to 49 age group and one-third were in the 40 to 54 age group.

The grades of the disability retirees ranged from GS-5 to GS-15. One-fourth of these were in GS-12 and GS-13. Over one-half were in GS-11 through GS-15.

The annuities of these disability retirees ranged from \$1,551 per year to \$5,987 per year. The average disability annuity was \$3,066.

DETAIL OF DISABILITY ANNUITIES:

\$5,000 - \$5,999	3
\$4,000 - \$4,999	3
\$3,000 - \$3,999	7
\$2,000 - \$2,999	11
\$1,000 - \$1,999	6
Less than \$1,000	0

(NOTE: Only the three annuities over \$5,000---which were \$5,508, \$5,623, and \$5,987 respectively---exceed the \$5,200 represented by the \$100 per week sick pay exclusion applicable to disability annuities under the Civil Service Retirement System.)

ESTIMATE OF FUTURE IMPACT OF PROPOSED TAX EXEMPTION ON DISABILITY ANNUITIES

Number of retirees: Since the proposed bill would not be retroactive in its application, the tax exemption provision which we are seeking would apply only to future retirements. Although the five-year average of retirements from among the group of employees to be covered has been 6 per year, the number in Fiscal Years 1962 and 1963 were 11 and 8, respectively, and we anticipated that the average for the next several years will be about 8 or 9.

Amount of annuities: We anticipated that the grade range of disability retirees will remain about the same with an average in the GS-12 or GS-13 bracket. Also, we anticipated that the ages of disability retirees will remain about the same and that the age group.

Most of these individuals have less than 20 years of service and their annuities are usually computed at the guaranteed minimum of 40%. (This minimum applies under both Civil Service and Foreign Service.) Consequently, we assume that the average disability retiree from this group in the future will retire in GS-12 ~~and~~ or GS-13 at an annuity based on 40% of his average salary for his highest-paid five years. In view of the adjustments effected in the Federal Salary Reform Act of 1962, we estimate the high-five average salary of retirees in these grades in future years will be at about \$11,300. (The base of GS-12 effective January 1964 is \$9,980 and the base of GS-13 is \$11,725. --The estimated average is not a statistical one--it represents the fifth step of GS-12 and less than the base of GS-13.)

Based on these assumptions, the average annuity of retirees affected by this proposal would be \$4,520 per year. (THIS IS LESS THAN THE \$5,200 exempted under the sick pay provision.)

CRITERIA FOR PARTICIPATION IN THE CIA RETIREMENT AND DISABILITY SYSTEM

(Extracted from Draft of HR 20-44)

a. GENERAL

Staff personnel serving under career, career-provisional, or reserve appointment are afforded retirement benefits either (1) under the provisions of the Civil Service Retirement Act or (2) under the provisions of the Central Intelligence Agency Retirement and Disability System as established under Title II of the Central Intelligence Agency Act Amendments of 1963. Such employees will normally be covered under the civil service retirement system upon initial appointment. Those who qualify for coverage under the CIA retirement system will be so designated in accordance with applicable provisions of this regulation.

b. POLICY

(1) The CIA Retirement and Disability System provides appropriate death, disability, retirement, and discontinued service benefits to employees whose careers are predominantly concerned with the conduct and support of intelligence operations in foreign countries or with the covert support in the United States of such operations under comparable conditions. Also, it provides appropriate discontinued service benefits to employees whose duties are so specialized that they are placed at a special disadvantage when they are required to seek other employment.

(2) In order to reserve the benefits of participation in the CIA retirement system to those employees for whom this system is designed, an employee's eligibility for voluntary retirement benefits under the system shall be contingent upon a finding that his career with the Agency has met the service

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conditions described above. Such finding shall be based upon his completion of a minimum period of sixty months of civilian service with the Agency in the performance of duty either (1) overseas or (2) in the covert support in the United States of foreign intelligence operations under comparable conditions. Such service shall hereinafter be referred to as "special qualifying service." Exceptions to this requirement may be approved only by the Director of Central Intelligence or the Deputy Director of Central Intelligence.

(3) In order to permit the participation of an eligible employee in the CIA retirement system at the earliest practicable time in his career with the Agency, the initial designation of an employee as a Participant in the system may be made upon a presumptive finding that his career shall meet the service conditions described above. Such finding shall be based upon his meeting each of the following requirements:

(a) He has been selected for Career Employee status as defined in Agency regulations.

(b) He has formally undertaken an obligation to serve anywhere and at any time according to the needs of the Agency;

(c) His career field of specialization is determined by the Head of his Career Service to be (1) in the conduct or support of intelligence operations in foreign countries or (2) the covert support in the United States of such operations under comparable conditions;

(d) He either has performed or is under official orders to perform duties described above as "special qualifying service."

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(4) In order to avoid the continued participation in the CIA retirement system of an employee whose career subsequent to his initial designation as a Participant does not meet the service conditions described above, there shall be periodic reviews of the past and prospective career of each Participant to reaffirm his continued eligibility for participation.

(a) Except as provided below, such reviews shall be performed on, or as soon thereafter as is practicable, the fifth, tenth, and fifteenth anniversary of an employee's designation as a Participant.

(1) Such reviews shall not be required in the case of a Career Employee who was on duty in the Agency on (the effective date of the CIA Act Amendments of 1963) and who, in addition to meeting the requirements for initial designation as a Participant, has already completed a minimum period of sixty months of special qualifying service at the time of initial designation.

(2) When a Participant has met the age, total service requirement, and special qualifying service requirement for voluntary retirement, such reviews shall be discontinued.

(b) Continued eligibility of an employee for participation in the CIA retirement system will require a finding by the Head of his Career Service upon such reviews that his career continues to lie predominantly in the conduct and support of foreign intelligence operations or in the covert support in the United States of such operations under comparable conditions. If such is not the case, the individual shall be removed

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from coverage under the CIA retirement system and, if such coverage is appropriate to his employment status, be placed under the civil service retirement system.

(c) An affirmative finding of continued eligibility upon such reviews will normally require that the employee have served the following minimum periods of special qualifying service: (1) 18 months at the time of the fifth anniversary review; (2) 36 months at the time of the tenth anniversary review; and (3) 60 months at the time of the fifteenth anniversary review. Exceptions to these requirements may be made only under the following conditions:

(1) The employee is serving at the time of such review in an assignment which will complete the specified minimum period of special qualifying service; or

(2) The Head of the employee's Career Service provides special justification explaining why the individual has not performed such service and assuring that he can be expected to do so within a reasonable period of time. An exception under this provision will require the approval of the Director of Personnel upon the advice of the CIA Retirement Board.

(5) Notwithstanding any of the requirements specified above, the Director of Central Intelligence or the Deputy Director of Central Intelligence may, for the purposes of the discontinued service provisions of the CIA retirement system, designate as a Participant any Career Employee who has served at

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least five years of civilian duty in the Agency upon determining that the employee's duties in the Agency have been so specialized that he is placed at a special disadvantage if required to seek other employment.

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ADMINISTRATION OF PROPOSED CIA RETIREMENT AND DISABILITY SYSTEM1. Standards of eligibility.

a. The proposed CIA Retirement and Disability System is designed to provide appropriate retirement, discontinued service, disability and death benefits to employees whose duties are (1) in support of Agency activities abroad hazardous to life or health or (2) so specialized because of security requirements as to be clearly distinguishable from normal government employment.

b. In order to reserve the benefits of participation in the proposed retirement system to those employees for whom it has been designed, an employee's designation as a Participant in the system will be contingent upon an initial determination and periodic reaffirmation that his career with the Agency requires him to perform qualifying service.

2. Selection of participants.

a. Staff personnel will be covered by the Civil Service Retirement Act upon initial appointment to the Agency. In order to permit the participation of an eligible employee in the CIA Retirement and Disability System at the earliest practicable time in his career with the Agency, the initial designation of an employee as a Participant in the system will be based upon his meeting each of the following requirements:

(1) He has been selected for Career Employee status as defined in Agency regulations;

(2) He has formally undertaken an obligation to serve anywhere and at any time according to the needs of the Agency;

(3) His career field of specialization is determined by the Head of his Career Service (a) to be in the conduct of support of intelligence activities in foreign countries or the covert support in the United States of such operations under comparable conditions; or (b) to require the performance of duties which are so specialized or circumscribed by security restrictions that he would be placed at a special disadvantage if required to acquire and utilize major vocational skills which are unique to intelligence work or may perform general duties under conditions of cover and security prohibiting them from informing prospective employers of the nature, scope, and level of their work experience.

(4) He either has performed or is under official orders to perform duties (a) in support of Agency activities abroad hazardous to life or health or (b) so specialized because of security requirements as to be clearly distinguishable from normal government employment.

b. In order to avoid the continued participation in the proposed CIA Retirement and Disability System of an employee whose career subsequent to his initial designation as a Participant does not meet the service conditions described above, there shall be reviews at intervals of not more than 5 years

of the past and prospective career of each Participant to reaffirm his continued eligibility for participation. Such reviews shall require determination by the Head of his Career Service that his career continues to be primarily oriented to qualifying service. They shall ensure that he is in fact performing reasonable periods of qualifying service so that he will be able to meet the requirements for retirement under this system. If an affirmative finding of continued eligibility as a Participant cannot be made, the employee would be removed from coverage under the proposed CIA Retirement and Disability System and be placed under the civil service retirement system or under social security as appropriate.

3. Delegations of authority.

Principal responsibility for the administration of the proposed CIA Retirement and Disability System will be vested in the Director of Personnel. However, there will be established a Retirement Board, comprised of senior officials representing the major components of the Agency, to assist and advise the Director of Personnel in the development and formulation of policies governing the administration of the System and to review and recommend action on all proposed retirements. It is intended that the Board will consider each application for voluntary retirement or for disability retirement and each recommendation for involuntary retirement. The Board will also have advisors representing the General Counsel, the Director of Security, the Chief, Medical Staff, and the Chief, Central Cover Division to render advice in their respective technical fields as required. The Director of Personnel will serve as the permanent chairman of the Board.

4. Appeals.

Employee appeals may be made through normal administrative procedures.

5. Rules and regulations.

Specific rules and regulations for selection of participants, record-keeping, and adjudication of applications for retirement will be required. The regulations promulgated under the Foreign Service Retirement and Disability System have been carefully examined and it is intended to draw heavily on these in establishing Agency procedures.

COST ESTIMATES

1. There will be certain increased costs for the administration of the retirement system. For reasons of efficiency and security, it is considered essential that full administration of the program excluding maintenance of the fund by the Department of the Treasury (as required by law in the case of the Foreign Service Retirement Fund) be accomplished within the Agency. It is estimated that by the end of the first five years the administration of the proposed program would cost approximately \$80,000 per year with an increase of approximately eight man years. Internal administration of the program would include determinations of eligibility and entitlements, payment of retirement benefits, and all related administrative matters.

2. Program costs cannot be estimated with comparable precision. Nevertheless, reasonably valid estimates have been made on the basis of actuarial experience of the civil service and Foreign Service systems.

The most recent annual report of the Chairman of the Civil Service Commission presents cost factors indicating that in addition to the 13% of payroll contributed by the employee and the employing Agency the Government would be required to contribute an additional .83% of the annual payroll of covered employees to support the benefits accruing on account of current service.

Similar, although not fully comparable data pertaining to the Foreign Service Retirement system, indicates that additional contributions by the Government of 10.69% would be required. Using the difference between these two estimates as reflecting the cost differentials of the differing benefits of the two programs and applying it to the estimated annual payroll of the 4,500 Agency employees eligible for the proposed retirement system, we compute that a maximum additional Government contribution of \$ [REDACTED] annually would be required. However, it has not been government practice for many years to fully fund its retirement programs. Further, there have been special charges against the Foreign Service Retirement Fund which go beyond the basic benefits of the proposed CIA system.

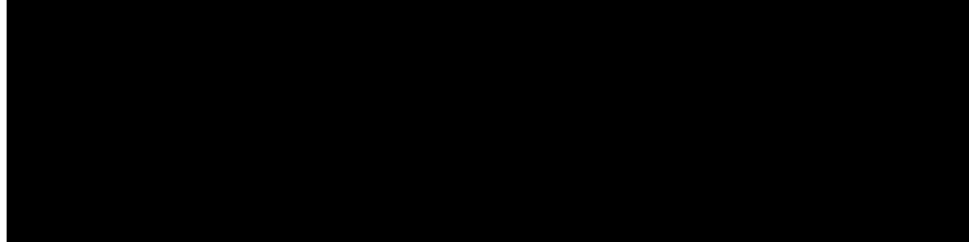
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3. A more realistic estimate can be made of the increased payout in basic annuity benefits under the proposed system over the Civil Service retirement system for the next five fiscal years. The estimate assumes a target rate of [REDACTED] other assumptions, based upon manpower studies and age and grade characteristics of the eligible group, contemplate an average retirement age of 55 years with 25 years of service and an average high-five salary of \$11,000 (about the second step of grade GS-13). Basic annuities computed under the new system would be \$5,500 as against \$4,829 under the civil service system. The difference of \$671 applied to the estimated average of [REDACTED] per year would result in the following total increased annuity payments for the years shown:

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<u>FY Year</u> 25X1A	<u>Annuitants</u> (Cumulative Totals)	<u>Increased</u> <u>Annuity Payments</u> (Cumulative Totals)
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The chain of recruitment, reassignment, and promotion actions created by this annual retirement of officers would result in a considerable saving in salaries. Assuming an average lapse of six months in this process, the saving would approximate \$2,300 per retirement and would total approximately [REDACTED] over a five-year period. This saving would almost offset the estimated increase in annuity payments for the first five years that the new system was in operation.

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PART B - Other Provisions

Sections 2 and 3 of Proposed Bill

The purpose of section 2 is to bring up to date references to other statutes and to update certain of the existing provisions of the Central Intelligence Agency Act. Several new provisions are included. Section 3 merely inserts new headings in the Agency Act.

1. Procurement Authorities

The Central Intelligence Agency Act of 1949 authorized the Agency to exercise certain specified authorities contained in the Armed Services Procurement Act of 1947. Since that time the Armed Services Procurement Act has been codified and enacted into positive law in Title 10 of the United States Code. Consequently, the purpose of subsections (1) and (2) is to provide corrected citations to the Armed Services Procurement Act.

2. Allowances and Benefits

Subsection (3) amends section 4 of the Central Intelligence Agency Act of 1949 adding three new paragraphs. The preceding paragraphs of section 4 were originally patterned after allowances and benefits available to Foreign Service personnel. Our new paragraphs are provisions which have been subsequently authorized by the Congress for Foreign Service personnel.

a. **Rest and Recuperation Travel.** This authority permits the travel of employees and members of their family at Government expense from certain designated hardship posts to an area where the employee and his family may relax and obtain needed freedom from climatic and other conditions which caused his post of assignment to be designated as a hardship post. For example, an employee stationed at [REDACTED] would be permitted to travel once during a two-year tour or twice during a three-year tour to Madrid, Spain, or possibly Rabat, Morocco.

b. **Dependents Accompanying Employee on Temporary Duty.** Not infrequently, assignments of Agency employees to their permanent posts of duty are accompanied with a direction to deviate or stop at another Agency post en route in order to receive orientation or training. In such situations this provision would permit the dependents of the employee to travel concurrently with the employee and remain with him at the temporary duty post with appropriate travel expenses paid by the Agency. An example of this type of travel would be the transfer of an employee from Washington to [REDACTED], but with a requirement that he spend ten days in [REDACTED] en route for operational briefings and familiarization with [REDACTED] linked activities. This authority would avoid the necessity of an employee choosing to send his family on to [REDACTED] prior to his arrival or his departing earlier from Washington to be timed so that he could meet his family at [REDACTED]

c. **Orientation and Language Training for Dependents.** This authority will permit necessary orientation or language training for members of the employee's family where this is deemed necessary because of the circumstances of the prospective post of assignment or because of contemplated duties of the employee.

3. **Subsection (4) - Eighteen-month Home Leave**

Existing authority to order employees to the United States from a post abroad for home leave is conditioned upon "completion of 2-years continuous service abroad or as soon as possible thereafter." This proposal extends the 2-year period to 3-years and, in addition, permits the Director, where hardship posts are involved, to order the employee on home leave after completion of eighteen months continuous service. It has been found that at certain hardship posts it is highly desirable to return the employee for home leave after eighteen months and, on the other hand, in other posts where conditions are more nearly comparable to the United States, that a tour of duty of three years is more appropriate than a two-year tour. Therefore, this proposal will give the Agency additional flexibility in assignment of employees on a worldwide basis.

4. **Section (5) - Hospitalization and Travel for Medical Treatment**

a. **Travel for Medical Treatment.** Existing legislation permits the Agency to pay the travel expenses of employees where illness or injury occurs abroad to the nearest locality where a suitable hospital exists. The

proposed legislation removes the requirement of hospitalization in order to qualify for travel at Government expense and replaces it with the more realistic standard permitting travel at Government expense where there is a requirement for travel to obtain adequate medical care. In many places medical care available locally is so inadequate by U.S. standards that while the illness or injury may not require hospitalization, nevertheless suitable medical care is essential. In addition, this proposal will extend the authority to include travel of dependents in the event of their illness or injury to the same extent as would be authorized for the employee.

b. Hospitalization or Similar Treatment. Existing authority permits the Agency to pay the cost of hospitalization of any employee in the event of illness or injury incurred abroad. The proposed legislation would broaden the standards slightly by authorizing reimbursement not only for hospitalization but also for costs of medical treatment in cases when hospitalization is not required. In many cases, although the illness or injury may not require hospitalization, treatment is required to prevent a more serious illness or aggravation of the injury. In addition, this proposed legislation would permit similar reimbursement for expenses of dependents located abroad. However, in the case of dependents there is in effect a deductible item of \$35.00 and a maximum limitation of 120 days of treatment for each illness or injury. This maximum limitation will not apply in the

event it is determined that the illness or injury clearly is caused by the fact of location of the dependent in the foreign area.

5. Subsection (6) - Reemployment Rights and Claims Authority

Reemployment Rights. This is a new authority for the Agency which would permit an individual to transfer from another department or agency to CIA for a specified time period agreed upon by the two agencies and upon completion of that assignment afford the individual statutory protection in reemployment. This authority is available in slightly differing forms to such agencies as State Department and AID. It could be of material assistance in fulfilling critical personnel requirements in times of emergencies by giving transferring employees an assurance that they can return to their parent agency upon completion of the assignment to CIA.

Claims Authority. The Agency has found occasional need for authority to process justifiable claims arising at overseas installations. The proposed legislation would permit the Agency to settle such justifiable claims of noncitizens in amounts not exceeding \$10,000 for any one claim. This authority would extend to loss or damage to real or personal property or personal injury or death. Claims would only be payable where it was established that the loss arose abroad out of the act or omission of an Agency employee or a person acting on behalf of the Agency. Similar authority in a somewhat more extensive form is available to the military departments, Department of State and other agencies.

6. Subsection (7) - Tax Exemption of Disability Annuities

This authority is related to the establishment of the new CIA retirement and disability system. The proposal would exempt from gross income for Federal income tax purposes a disability annuity payable under the proposed CIA retirement system.

7. Subsection (8) - Authority to Accept Gifts

This subsection would authorize the Director to accept gifts and bequests to the Agency for the benefit or welfare of employees of the Agency or their dependents. In the absence of such authority, the Director would not be in a position to accept such gifts. It is anticipated that in future years with the availability of this authority there will be gifts or bequests from donors who are interested in the welfare of Agency employees and their dependents. It is hoped that such funds may become available in the near future whereby scholarships could be made available to children of Agency employees in deserving cases. This type of authority is available in varying forms to many agencies of Government today.

8. Cost Estimates

(PART C. Other Provisions)

9. Cost Estimates

25X1A The foregoing provisions are based substantially on authorities available
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[REDACTED] Agency personnel serving overseas, Agency authorities for travel and medical care have been extended insofar as possible to provide comparable benefits. Consequently the additional costs are so nominal that they are not measurable. The additional costs of providing the new authorities are indicated below.

a. <u>Procurement Authorities</u>	Additional Cost <u>First Full Year</u>
No costs are involved.	\$ 0
b. <u>Rest and Recuperation Travel</u>	
As indicated above, additional costs are not measurable.	0
c. <u>Dependent Travel Expenses of TDY Assignment</u>	
Based on normal Agency requirements for detailing or re-routing employees for orientation and training enroute to the post of duty, the principal increase will be in per diem costs. Only a slight increase in transportation costs will be incurred.	125,000
d. <u>18-Month Home Leave</u>	
The proposed amendment permits greater flexibility in establishing the term of overseas service required	0

to qualify for home leave. We believe that savings resulting from use of 3-year tours instead of 2-year tours will more than offset the use of 18-month tours at hardship posts and will result in a net saving.

e. Hospitalization and Travel for Medical Treatment

As indicated above, additional costs are not measurable.

0

f. Re-Employment Rights

No direct costs are involved. Moreover, it is anticipated that there will be a reduction in future recruiting costs.

0

g. Claims Authority

By its nature, expenditures under this authority are difficult to estimate but our general experience suggests the cost indicated.

20,000

h. Tax Exemption of Disability Annuities

This provision does not involve appropriation costs.

0

i. Authority to Accept Gifts

The acceptance of gifts made to the Agency would involve no direct cost. Even assuming the possibility of immediate receipt of substantial gifts, we believe the possible administrative costs would total no more than one man year.

10,000

TOTAL:

\$155,000

Attachments:

Appendix I : Sectional Analysis and Explanation

Appendix II; Comparison of Pertinent Provisions of the Civil Service,

*Procurement
authorities*

3(a) + (b)

10 USC 2301-2314, 2351, 2353

SUBJECT

SECTION

SOURCE

R&R

Sec. 2

(1)

4(1)(G) - P. L. 110
New

Sec. 911(9) Foreign Service Act
22 U.S.C. 1136 9/4/61 (708 (3) AID)

TDY Travel

4(1)(H) - P. L. 110
New

Sec. 911(10) Foreign Service Act
22 U.S.C. 1136 9/4/61 (708 (3) AID)

Languages & dependents (as attached)
Training for Spouse

4(8) - P. L. 110
New

Sec. 701 Foreign Service Act
60 Stat 1018 9/4/61 (708 (1) AID)
74 Stat 837

18-month home
leave

(2)

4(3)(A) - P. L. 110
Old

Sec. 933(a) Foreign Service Act
amended 89/4/61 (708(4) AID)

*For Emp's
& dependents*

(3)

4(5)(A) - P. L. 110
Old

Sec. 942 Foreign Service Act
amended 9/4/61 (708(5) AID)

Medical Care

Employee's

4(5)(C)(1) - P. L. 110
Old

Sec. 941(a) Foreign Service Act, 1956
amended P. L. 84-828, 22 USC 1156
and 1157 (1956)

Medical Care
Dependents

(C)(11) - P. L. 110
Old

941(b) - same as above

Reemployment

rights

(4)

5(9) - P. L. 110
New

528 Foreign Service Act
625(b) AID

Severance pay
Tax Exemption

5(h)

Disability Payments

4(h) - P. L. 110

104(a) IRC 1954, Sec. 51, 86-727, 9/8/60

Overseas Claims
authority

Gifts and

Bequests

A BILL

To amend the Central Intelligence Agency Act of 1949, as amended, and for other purposes.

1. Be it enacted by the Senate and House of Representa-
2. tives of the United States of America in Congress
3. assembled, That this Act may be cited as the "Central
4. Intelligence Agency Act Amendments of 1963."
5. Section 2. The Central Intelligence Agency Act of 1949,
6. as amended (50 U.S.C. 403 (a) et seq.), is further
7. amended as follows:
8. (1) Amend section 3 by striking out subsection (a)
9. and inserting in lieu thereof the following:
10. "(a) In the performance of its functions, the Central
11. Intelligence Agency is authorized to exercise the authorities
12. contained in sections 2301-2314, 2381, 2383 of title 10,
13. United States Code."
14. (2) Amend section 3(b) by deletion of the phrase "or
15. the Executive of the Agency" and substitute therefor: "and
16. such other officials of the Agency as may be designated
17. by the Director."

Procurement
authorities

Same

R&R

1. (3) In section 4 add the following new paragraphs
2. (1)(G) and (1)(H), and (8);
3. "(1)(G) Pay the travel expenses of officers and
4. employees of the Agency and members of their families,
5. while serving at posts specifically designated by the
6. Director for purposes of this paragraph, for rest and
7. recuperation to other locations abroad having different
8. environmental conditions than those at the post at which
9. such officers and employees are serving, provided that
10. such travel expenses shall be limited to the cost for each
11. officer or employee and members of his family of one
12. round trip during any continuous two-year tour unbroken
13. by home leave and two round trips during any continuous
14. three-year tour unbroken by home leave."

TDY travel of
dependents

15. "(1)(H) Pay the travel expenses of members of the
16. family accompanying, preceding, or following an officer
17. or employee if, while he is enroute to his post of
18. assignment, he is ordered temporarily for orientation
19. and training or is given other temporary duty;"

Training for
dependents

20. "(8) Provide appropriate orientation and language
21. training to members of family of officers and employees
22. of the Agency in anticipation of the assignment abroad of
23. such officers and employees, or while abroad."

Home leave
18 months

1. (4) Amend section 4(3)(A) to read as follows:
2. "(3)(A) Order to any of the several States of the
3. United States of America (including the District of
4. Columbia, the Commonwealth of Puerto Rico, and any
5. territory or possession of the United States) on statutory
6. leave of absence each officer or employee of the Agency
7. who was a resident of the United States (as described
8. above) at the time of employment, upon completion of
9. three years' continuous service abroad or as soon as
10. possible thereafter and may so order after completion
11. of eighteen months such service."

12. (5) Amend section 4(5) by striking out subsections
13. (A) and (C) and inserting in lieu thereof the following
14. new paragraphs (A) and (C);

Medical care-
Travel for
employees and
dependents

15. "(A) In the event an officer or employee of the
16. Agency or one of his dependents, requires medical care,
17. for illness or injury not the result of vicious habits,
18. intemperance or misconduct, while on assignment abroad
19. in a locality where there is no qualified person or
20. facility to provide such care, pay the travel expenses
21. of such person by whatever means he shall deem
22. appropriate, including the furnishing of transportation,
23. and without regard to the Standardized Government

1. Travel Regulations and section 10 of the Act of
2. March 3, 1933, as amended (60 Stat. 808; 5 U.S.C. 73b),
3. to the nearest locality where suitable medical care can
4. be obtained and on his recovery pay for the travel
5. expenses of his return to his post of duty. If any such
6. officer, employee, or dependent is too ill to travel
7. unattended, or in the case of a dependent too young to
8. travel alone, the Director may also pay the round-trip
9. expenses of an attendant or attendants. "

Medical care-
employees

10. "(C) (i) In the event of illness or injury requiring
11. hospitalization or similar treatment of an officer or
12. employee of the Agency, not the result of vicious habits,
13. intemperance, or misconduct on his part, pay for the
14. cost of treatment of such illness or injury.

Medical care
dependents

15. " (ii) In the event a dependent of an officer or employee
16. of the Agency who is stationed abroad, incurs an illness
17. or injury while such dependent is located abroad, which
18. requires hospitalization or similar treatment, and which
19. is not the result of vicious habits, intemperance, or
20. misconduct on his part, pay for that portion of the cost of

1. treatment of each such illness or injury that exceeds \$35
2. up to a maximum limitation of one hundred and twenty days
3. of treatment for each such illness or injury, except that
4. such maximum limitation shall not apply whenever the
5. Director, on the basis of professional medical advice,
6. shall determine that such illness or injury clearly is
7. caused by the fact that such dependent is or has been
8. located abroad."

9. (6) In section 5, add the following new paragraphs
10. (g), (h), (i) and (j):

11. "(g) Where an officer or employee of another
12. Government agency transfers with the consent of such
13. agency and is appointed to a position in the Agency, such
14. an officer or employee shall be entitled upon separation
15. from the Agency, to reinstatement to the position occupied
16. at the time of appointment or to a position of comparable
17. salary in such other Government agency."

Re-employment
rights

18. "(h) Grant terminated personnel a severance benefit
19. of one month's salary for each year's service but not to
20. exceed one year's salary at the then current salary rate

Severance pay →

out

1. of such personnel in accordance with such regulations
2. as the Director may prescribe and, in addition, whenever
3. the Director deems such payment to be warranted."

Tax Exemption
Disability Pmts

4. "(i) Paragraph (4) of section 104(a) of the Internal
5. Revenue Code of 1954 (26 U.S.C. 104(a)(4)) (relating
6. to the exclusion from gross income of compensation
7. for injuries and sickness) is hereby amended to read
8. as follows:

9. "(4) amounts received as a pension, annuity, or
10. similar allowance for personal injuries or sickness
11. resulting from active service in the armed forces of
12. any country or in the Coast and Geodetic Survey or the
13. Public Health Service, or as a disability annuity payable
14. under the provisions of section 831 of the Foreign Service
15. Act of 1946, as amended (22 U.S.C. 1081; 60 Stat. 1021),
16. or as a disability annuity payable under Title II of the
17. Central Intelligence Agency Act of 1949, as amended
18. (50 U.S.C. 403(a) et seq.).

Overseas claims
authority

19. "(j) Settle and pay, whenever the Director determines
20. that payment will further the purposes of the Act, without

1. regard to any other provisions of law and under such
2. regulations as the Director may prescribe, in an amount
3. not exceeding \$10,000, any claim against the United
4. States for loss or damage to real or personal property
5. (including loss of occupancy or use thereof), belonging to,
6. or for personal injury or death of, any person not a citizen
7. or resident of the United States, where such a claim arises
8. abroad out of the act or omission of any Agency employee
9. or out of the act or omission of any person acting on
10. behalf of the Agency but only if such claim is presented
11. in writing to the Agency activity involved within one year
12. after it accrues."

13. (7) Add a new section 7 after present section 6,
14. as follows:

15. "(7) (a) The Director of Central Intelligence is
16. authorized to receive gifts to the Agency and in his
17. discretion to accept, receive, hold, administer, and
18. expend such gifts and bequests of personal property,
19. from individuals or others, for the benefit of, or for
20. use in connection with, the Central Intelligence Agency

Gifts and
Bequests

1. and its personnel. Gifts or bequests of money or
2. the profits from sales of other property received
3. as gifts shall be subject to disbursement by the Director
4. in accordance with the terms and conditions of the
5. acceptance of any particular gift or bequest.

6. "(b) The Director is authorized to invest, reinvest,
7. or retain investments of the money or securities as he
8. shall deem advisable and the interest or profits accruing
9. from such use shall be available for disbursement as
10. provided in (a) above. For the purpose of Federal
11. income, estate and gift taxes, gifts and bequests accepted
12. by the Director shall be deemed to be a gift or bequest
13. to or for the use of the United States."

14. Section 3. (1) Insert the heading "TITLE I -- Definitions
15. and General Authorities" before the section title,
16. "Definitions," of section 1 of the Central Intelligence
17. Agency Act of 1949, as amended.

18. (2) Renumber section 7; section 8, Appropriations;
19. section 9, Separability of Provisions; and section 10,
20. Short Title; to read: section 8; section 9, Appropriations;
21. section 10, Separability of Provisions; and section 11,
22. Short Title.

Retirement &
Disability System

1. Section 4. The Central Intelligence Agency Act
2. of 1949, as amended, is further amended by the
3. addition of TITLE II as follows:
4. "TITLE II -- RETIREMENT AND DISABILITY
5. SYSTEM
6. "Section 201. Under such regulations as the Director
7. may prescribe, the Director is authorized to exercise
8. the authorities for the establishment, maintenance
9. and operation of a retirement and disability system
10. set forth in the Act of 13 August 1946, c. 957, 60 Stat. 999,
11. as heretofore or hereafter amended, in order to establish
12. a retirement and disability system for such individuals
13. and classes or groups of Agency officers and employees
14. as he may designate from time to time; Provided, That
15. the Director shall not implement future amendments to
16. the said authorities established in the Act of 13 August
17. 1946 until the Committees on Armed Services of the
18. Senate and the House of Representatives have been
19. consulted as to all the details of such amendments.

~~P. 1, L 13~~

50 U.S.C. 403(d)(3)

~~L 16~~

54 U.S.C. 1001 et seq.

H. R. 7216 References to Laws etc.

code
code

~~p. 1, L 5~~
~~P 1, L 4~~

✓ Central Intelligence Agency Act of 1949, as amended (50 USC 403(a) et seq.)

Folder

~~p. 2, L 1-4~~

10 USC 2301-2307, 2312 and 2383 (Armed Services Procurement Act of 1947, as amended)

Folder

~~p. 4, L 9~~

Section 203(f) of the Annual and Sick Leave Act of 1951, as amended (by section 401, PL 86/707, Overseas Allowance and Differentials Act, 6 September 1960 - attached) 5 USC 2062

Tab

~~p. 5, L 4~~

Standardized Government Travel Regulations and

Tab

~~L 6~~

Section 10 of the Act of March 3, 1933, as amended (60 Stat. 808; 5 USC 73b (Traveling expenses limited to lowest first class))

Tab

~~p. 24, L 4~~

~~p. 7, L 9~~

26 USC 104(a) Compensation for injuries or sickness

Tab

~~p. 9, L 9~~

50 USC 403(d) et seq. (This section, 403(d) was repealed by PL 85/507, dated 7/7/58, Gov't Employees Training Act. Section related to Education and Training) Cite should read "50 USC 403(e) et seq."

~~p. 9, L 20~~

~~p. 18, L 7~~

~~p. 18, L 22~~

Section 14 of the Federal Employees Compensation Act of September 7, 1916, as amended

Tab

~~p. 14, L 23~~

~~p. 24, L 17~~

Section 3477 of the Revised Statutes, as amended (31 USC 203) - Assignment of claims; set-off against assignee.

Tab

~~p. 19, L 32~~

~~p. 30, L 15~~

Chapter 11 of title 38, United States Code (Definition of phrase "period of war") 38 USC 301(2)

Tab

~~L 23~~

~~L 16~~

Chapter 67 of title 10 of the United States Code, Title 10, sections 1331 et seq., Retired pay for non-regular service.

p. 34, L 12	5 USC 62 (Holding other lucrative office) and	Tab
L 13	5 USC 715a - omitted and superceded by 5 USC 2255, Mandatory separation. Cite should read "5 USC 2255."	Tab
	Civil Service Retirement Act , as amended	Folder
	Foreign Service Act of 1946, as amended	Folder
<hr/>	<hr/>	<hr/>
<i>p2, L 13</i>	<i>50 U.S.C. 403(d)(3)</i>	<i>Code</i>
<i>p2, L 16</i>	<i>5 U.S.C. 1001 et seq.</i>	<i>Code</i>

H. R. 7216

(p. 4, L 9)

Originally 203F applied only to Foreign Service. It is now 5 USC 2062(f), applying to all officers and employees upon completion of 24 months of continuous service overseas:

Sec. 2062

(f) Amount of leave of absence; accumulation.

Upon completion of twenty-four months of continuous service outside the United States, officers and employees may be granted, in accordance with regulations of the President, leave of absence at a rate not to exceed one week for each four months of such service without regard to any other leave provided by this chapter, for use in the United States, or, if their respective places of residence are outside the area of employment, in the Commonwealth of Puerto Rico or the possessions of the United States. Such leave so granted may be accumulated for future use without regard to the limitation in subsection (d) of this section but no such leave shall be made the basis for any terminal leave or for any lump-sum payment.

H. R. 7216

(p. 5, L 6)

5 USC 73b

Sec. 73b. Traveling expenses limited to lowest first-class rate

Whenever by or under authority of law actual expenses for transportation may be allowed, such allowances shall not exceed the lowest first-class rate by the transportation facility used in such transportation unless it is certified, in accordance with regulations prescribed by the President, that the lowest first-class accommodations are not available or that use of a compartment or such other accommodations as may be authorized or approved by the head of the Agency concerned or such subordinates as he may designate, is required for purposes of security. Mar. 3, 1933, c. 212, Title II, Sec. 10, 47 Stat. 1516, as amended Aug. 2, 1946, c. 744, Sec. 6, 60 Stat. 808.

(p. 7, L 9)

26 U.S.C. Sec. 104 (a) (4)

Sec. 104. Compensation for injuries or sickness.
(a) In general.

Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, gross income does not include --

(1) amounts received under workmen's compensation acts as compensation for personal injuries or sickness;

(2) the amount of any damages received (whether by suit or agreement) on account of personal injuries or sickness;

(3) amounts received through accident or health insurance for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer); and

(4) amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, or as a disability annuity payable under the provisions of section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081; 60 Stat. 1021).

For purposes of paragraph (3), in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1) (relating to self-employed individuals), contributions made on behalf of such individual while he was such an employee to a trust described in section 401(a) which is exempt from tax under section 501(a), or under a plan described in section 403(a), shall, to the extent allowed as deductions under section 404, be treated as contributions by the employer which were not includible in the gross income of the employee.

31 U.S.C. Sec. 203 Assignments of claims; set-off against assignee.

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, except as hereinafter provided, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same. The provisions of this section shall not apply to payments for rent of postoffice quarters made by postmasters to duty authorized agents of the lessors.

The provisions of the preceding paragraph shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract

providing for payments aggregating \$1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency: Provided,

1. That in the case of any contract entered into prior to October 9, 1940, no claim shall be assigned without the consent of the head of the department or agency concerned;
2. That in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment;
3. That unless otherwise expressly permitted by such contract any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing;
4. That in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of assignment with (a) the contracting officer or the head of his department or agency; (b) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and (c) the disbursing officer, if any, designated in such contract to make payment.

Notwithstanding any law to the contrary governing the validity of

assignments, any assignment pursuant to this section, shall constitute a valid assignment for all purposes.

In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

Any contract of the Department of Defense, the General Services Administration, the Atomic Energy Commission, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, in time of war or national emergency proclaimed by the President (including the national emergency proclaimed December 16, 1950) or by Act or joint resolution of the Congress and until such war or national emergency has been terminated in such manner, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or set-off, and if such provision or one to the same general effect has been at any time heretofore or is hereafter

included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract, whether during or after such war or emergency, shall not be subject to reduction or set-off for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of (1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract, (2) fines, (3) penalties (which term does not include amounts which may be collected or withhold from the assignor in accordance with or for failure to comply with the terms of the contract), or (4) taxes, social security contributions, or the withholding or nonwithholding of taxes or social security contributions, whether arising from or independently of such contract.

Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights or obligations heretofore accrued. (R.S. Sec. 3477; May 27, 1908, ch. 206, 35 Stat. 411; Oct. 9, 1940, ch. 779, Sec. 1, 54 Stat. 1029; May 15, 1951, ch. 75, 65 Stat. 41)

H. R. 7216

(p. 30, L 15)

38 U.S.C. Ch 11, Sec. 301(2)

(2) The term "period of war" includes, in the case of any
veteran--

(A) any period of service performed by him after
November 11, 1918, and before July 2, 1921 if such veteran
served in the active military, naval, or air service after
April 5, 1917, and before November 12, 1918; and

(B) any period of continuous service performed by him
after December 31, 1946, and before July 26, 1947, if such
period began before January 1, 1947.

H. R. 7216

(p. 34, L 12)

5 U.S.C. Sec. 62 Holding other lucrative office

No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specially authorized thereto by law; but this shall not apply to retired officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate. Retired enlisted men of the Army, Navy, Air Force, Marine Corps, or Coast Guard retired for any cause, and retired officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement. (July 31, 1894, ch. 174, sec. 2, 28 Stat. 205; May 31, 1924, ch. 214, 43 Stat. 245; July 30, 1937, ch. 545, sec. 6, 50 Stat. 549; June 25, 1938, ch. 694, 52 Stat. 1194.)

5 U. S. C. 715(a) - omitted and superceded by 5 U. S. C. 2255

§ 2255. Mandatory separation.

(a) Seventy years of age and fifteen years of service; effective date of separation.

Except as hereinafter provided, an employee who shall have attained the age of seventy years and completed fifteen years of service shall be automatically separated from the service. Such separation shall be effective on the last day of the month in which such employee attains the age of seventy years or completes fifteen years of service if then beyond such age, and all salary shall cease from that day.

(b) Notification of separation.

Each employing office shall notify each employee under its direction of the date of such separation from the service at least sixty days in advance thereof: Provided, That subsection (a) of this section shall not take effect without the consent of the employee until sixty days after he has been so notified.

(c) Presidential exemption.

The President may, by Executive order, exempt from automatic separation under this section any employee when, in his judgment, the public interest so requires.

(d) Persons exempt.

The automatic separation provisions of this section shall not apply to any person named in any Act of Congress providing for the continuance of such person in the service, to any Member, to any congressional employee, to the Architect of the Capitol or any employee under the office of the Architect of the Capitol, or to any employee in the judicial branch who has been appointed to hold office for a definite term of years.

(e) Alaska Railroad and Canal Zone employees.

In the case of an employee of The Alaska Railroad, Territory of Alaska, or an employee who is a citizen of the United States employed on the Isthmus of Panama by the Panama Canal Company or the Canal

Zone Government, the provisions of this section shall apply upon his attaining the age of sixty-two years and completing fifteen years of service on the Isthmus of Panama or in the Territory of Alaska. (May 29, 1930, ch. 349, § 5, as renumbered July 31, 1956, ch. 804, title IV, § 401, 70 Stat. 748.)

NOTES FOR BRIEFING GENERAL CARTER ON RETIREMENT REGULATION

1. Introductory Remarks

Thanks for taking time to go over regulation with us. Want to mention that the representatives designated by the Deputy Directors to coordinate the regulation have been cooperative and responsive in helping us to get this phase completed quickly.

Feel a word of explanation about the length of the regulation is needed-- 42 pages. However, bill itself is 30 pages. Retirement system is complex subject which cannot be described in a few pages. However, most of the material which we think is important to cover with you is in the first 11 pages. The rest of the regulation is taken almost entirely from the bill.

2. Objectives

In drafting, we tried to keep five general objectives before us:

First, to retain flexibility. (We may have written in more than BOB or the Committees will accept. Will mention these points as we come to them.)

Second, to make the regulation a complete package which stands on its own feet.

Third, to stick closely to the language of the bill but be sure to cover also points emphasized in discussions with Committees and in their reports.

Fourth, to delegate authorities necessary for routine administration. (Will cover in a moment those reserved to DCI.)

Fifth, to spell out internal procedures only to extent necessary to substance of regulation. Will cover later what additional issuances we think may be necessary or desirable.

3. Key Features

Will be glad to go through regulation page by page with you if you wish, but want first to go through just highlighting those sections that we think are particularly significant.

Page 1: In paragraph (1) under the heading DEFINITIONS, we have defined adverse determination. This was needed to simplify the writing of hearing and appeal procedures which I will cover later.

In paragraph (3) under the same heading, we have defined Agency service to avoid any misunderstanding or confusion. The definition covers two points that might otherwise be misunderstood: one, only service as a civilian employee of CIA counts; and, two, service with predecessor agencies--OSS, SSU, etc.--does not count as Agency service.

Page 2: In paragraph (5) at the top of page 2, we have defined "career." We felt this was necessary because of the importance of the term in establishing criteria for participation.

Page 3: There are two very important definitions on this page. In discussing them, am also going to jump over to the policy statements and the sections on designation of participants and periodic review of participants.

First, there is the definition of "qualifying service" in paragraph (11). This definition is taken from the bill except that we have spelled out what was covered in the bill by a reference to another section of the bill. As you know, the bill now contains requirements for five years of qualifying service to be eligible for voluntary or involuntary retirement. (Let me explain here that we are now using the term "involuntary retirement" to mean what we had generally called "discontinued service" previously. This is because the bill now covers under "discontinued service" only the participant who is separated without qualifying for an annuity. The provision we are describing as "involuntary retirement" has been placed in the bill under the heading of "mandatory retirement" which also includes age retirement.)

Second, there is the definition of "qualifying duty" in paragraph (12).

This definition became necessary when the bill was amended to include a definition of "qualifying service" which was broader than we had intended in our use of the term. Under the bill, merely being a participant is "qualifying service." We had of course intended that participants would be required to perform reasonable periods of the kinds of duty which warrants the bill in order to be designated and to remain in the system. "Qualifying duty" as we have defined it here is what we had previously described as "qualifying service."

I want to jump over now to the policy statements on page 5.

Paragraphs (b), (c), and (d) cover the Initial Designation of participants, Continuance as a Participant, and the vesting of continued participation in a Participant After Fifteen Years of Service. You will notice that these statements require the performance of qualifying duty to be designated a participant and to remain a participant. Also, I mentioned earlier that we had felt a definition of "career" was needed. In this connection, let me point out in paragraph (d) the requirement that a participant's "career" be adjudged qualifying.

Now, let's skip over to page 8 where we have spelled out the criteria for initial designation and periodic review. The five requirements listed under (1), Initial Designation, are taken from the Committee report. (READ THEM)

Paragraph (2) on Periodic Review is also taken from the Committee report.

Notice that it requires two reviews on the fifth and tenth anniversary of designation as a participant and a final review on the fifteenth anniversary of appointment in the Agency. The reason for tying the final review to EOD in the Agency is, of course, the fact that the right of participation vests at the 15th year of service and we want

Turning to page 2, there is a schedule of minimum periods of qualifying duty which must be performed if a participant is to remain in the System. In the last sentence, we have provided an authority for the Director to make exceptions; we believe this is a necessary flexibility but are not sure that BOB and the Committees will agree to it. At least in theory, it would permit a participant to be in the System and retire without ever performing any qualifying duty.

Also on page 2, in paragraph (3), we have covered the designation of employees on duty when the bill is enacted. This paragraph conforms to the qualifying duty requirements stated above. Again, we have left a loophole for the Director to make exceptions which would make it possible to designate one of our fifteen-year-employees who had never performed qualifying duty. We aren't sure that we can keep this provision in the regulation through the external coordination.

Going back to page 4 to pick up where I left off,

In paragraph (13), we have included a definition of "service credit." We also added a provision to enable us to use the Civil Service Commission's lengthy and detailed material on creditability of service and not incorporate similar material in our ^{regulation} ~~bill~~. We have, of course, included a loophole so that we can deviate if necessary. In paragraph (1) under the heading POLICY at the bottom of the page, we have included a requirement that participants be U.S. citizens. We did this after hearing that this particular point had been raised on the Senate floor.

Page 5: We've already covered (b), (c), and (d). I would like to focus now on the paragraphs on hearings and appeals which ^{begin} ~~begin~~ with (2) Opportunity to be Heard by Retirement Board at the bottom of page 5.

As you know, the bill contains a proviso that determinations of the Director under the System are not reviewable by any court. We felt that this made it particularly important that our regulation provide for hearings and appeals within the Agency. ^{appeal} Procedures which we have provided are similar to those granted an employee who is being involuntarily separated under the Director's authority. Do not provide for representation by counsel or furnishing specific statements of reasons for determination. We believe procedures give employee every assurance that his case will be completely and impartially considered.

Paragraph (2) on page 5 provides a right to the employee to be heard by the Retirement Board before it recommends an adverse determination.

Paragraph (3) on page 6 provides a right of appeal to the Director of any determination made by him or by the Director of Personnel. The procedures for appeal are contained in paragraph f on page 10 which covers notice of determinations and in paragraph g beginning on page 11. Want to call to your particular attention the role the IO will play.

Now if we can go back to page 6, I think we can take up the rest of the items in order.

Paragraph d. beginning at the bottom of page 6 covers delegations of authority. The authorities which have been reserved to the Director are approval of voluntary retirement and involuntary retirement--whether under the general provision for involuntary retirement or on disability retirement initiated by the Agency. Also, only the DCI

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can extend a participant's employment beyond mandatory retirement age. We have delegated to D/Pers authority to designate participants

but we are not certain that this delegation can last through coordination. The Senate report specifically states that designations will be ^{made only} determined by the Director. It will just mean more paper-work coming up here to your office if we can't keep the delegation.

Page 7: Paragraph (2) establishes the CIA Retirement Board. (READ)

Without coming to any conclusion about who the Chairman should be, we have pretty well agreed among ourselves that it should not be D/Pers or any of his people. It does need to be a senior guy who can put in almost full time at the job during the early months of implementation of the system.

Paragraph (3) delegates authorities to the D/Finance. We have reserved to the Director the authority to invest monies in the fund.

We've already covered pages 8, 9, 10, 11, and most of 12. Here we get into the substantive provisions of the bill, beginning with Disability Retirement.

Page 12: The first paragraph under h., Disability Retirement, states the eligibility requirements and specifies that D/Pers can approve voluntary disability retirement but only the DCI can approve involuntary disability retirement. There is a companion decision to make in each case regarding whether the disability is permanent.

Page 13: Paragraph (2) is largely procedural. You will notice that D/Pers will get the advice of the Board of Medical Examiners, the DD having career jurisdiction over the employee, and the CIA Retirement Board before recommending involuntary disability retirement.

Paragraph (3) on the supervisor's statement is standard with both Civil Service and Foreign Service.

Page 14: We have provided in paragraph 4 for a Board of Medical Examiners chaired by the Chief, Medical Staff. At least one member must not be in

government service. We've also provided an escape clause so the Chairman of the Board can appoint other doctors to conduct examinations when necessary. We're thinking here of cases when the disabled person is not in this area.

The next few pages cover the computation of annuity, periodic reexamination of an annuitant who is not permanently disabled, and reemployment of a recovered annuitant. These are all pretty much taken from the bill. On page 18, in paragraph (2) at the top of the page, we have included a provision that the recovered disability annuitant who is not reemployed may be considered as having been involuntarily retired. The bill does not include this provision but we believe that we can do so. It would cover the case of the man who had the 25 years of service but who did not meet the age 50 requirement for voluntary service. The bill does specifically provide for considering him as having voluntarily retired if he is qualified and so elects.

if not, we qualified

The next two sections repeat material on the bill about the relationship between FECA benefits and disability retirement.

Page 19: Beginning at the bottom of page 19, we come to ~~Disability~~ Death in Service.

This is just the material included in the bill.

Page 20: Beginning at the bottom of page 20, we have included the material in the bill on Voluntary Retirement.

Page 21: Beginning about the middle of page 21, we have Discontinued Service Benefits. This just covers the refund of contributions or a deferred annuity to a participant separated after 5 years of Agency service.

Page 22: The material on Involuntary Retirement begins at the top of page 22.

Want to call your attention to the procedure we have provided for these cases. Paragraph (2) indicates that the recommendation will ordinarily originate with the Head of the Career Service. However, we have provided that D/Pers may originate in appropriate cases--these might be cases coming out of the Personnel Evaluation Board.

~~Report~~

Still on page 22, we come to the provision on Mandatory Retirement for age. This is taken from the bill but want to be sure you realize the changes made in the Senate version. The section calls for the automatic separation of a GS-18 or above at 65 and of a GS-17 or below at 60. However, he will receive an annuity only if he has 5 years of Agency service. We think it unlikely that we would have a case of a GS-17 or below reaching age 60 w/o 5 years of service, but if we did, we might want to extend his time--and the DCI would have authority to do so--until he completed 5 years of service.

A point we should mention here is the fact that there are now in the Clandestine Services some people who are ~~at~~ 60 and over who would qualify for designation ^{as} ~~as~~ participants. We are going to have to face up to a policy question of whether to designate as a participant a man who is already beyond mandatory retirement age and then retire him. It seems illogical to do so but we are sure that some of these people are counting on getting the 2% annuity.

The rest of the regulation is just "nuts and bolts" stuff on computation of annuities, prior service credit, voluntary contributions and the like.

Would like to skip over to page 40 just to call your attention to the

section on compensation of a reemployed annuitant. This is in paragraph

And, finally, let me point out section t. beginning on page 41 regarding the numerical limitation on retirements. Paragraph (1) simply states what the bill states. Paragraph (2) explains that deferred annuities won't be counted against the limitation until they are actually received. Paragraph (3) on page 42 gives the D/Pers responsibility for controlling the number of retirements so we don't exceed the limit.

4. OTHER ISSUANCES

Mention briefly that we will need an internal Agency procedural issuance. Some of this material is already prepared in rough draft. Plan to get together with Finance to produce a sort of "operational plan" on how to proceed.

Also plan to produce a Question and Answer pamphlet similar to the ones put out by Civil Service and Foreign Service.

5. BILL SIGNING CEREMONY

If can take a few more minutes, would like to raise a new subject. We would like to seize this opportunity to have the President make a ceremony of signing the bill and say a few nice things about the Agency. ~~Max~~ Also, would like to try to get some of the pens used for signing to give to people who have done most of the work on the bill.